THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO.16945 of 2005

DATED:02-08-2005

Between:

H.K.S. Prasad S/o H.K.Krishna Murthy Hindu,
E.No. 575149, R/o.Tangedikunta Village
O:D:Cheruvu Mandal, Anantapur District.

..... PETITIONER

AND

1 The Depot Manager, APSRTC, Kadiri Depot, Kadiri,

Anantapur District and others.

.....RESPONDENTS

ORDER:

This writ petition is filed by the petitioner aggrieved by the order passed by the first respondent dated 29-06-2002, under which a major penalty of withholding of annual increment for a period of two years with cumulative effect was imposed without conducting a regular departmental enquiry.

2. According to the petitioner, he was appointed as a Conductor on 01-08-1996 in the respondent-Corporation. While he was working as such, he was issued

show cause notice on 24-04-2002 on certain alleged irregularities and asked to submit his explanation. Accordingly, the petitioner submitted his explanation. But the first respondent passed a final order imposing major penalty. If the first respondent was not satisfied with the explanation submitted by the petitioner, ought to have ordered regular departmental enquiry. Thereafter, the petitioner filed an appeal before the second respondent, but no orders have been passed. Therefore, the petitioner has come up with the present writ petition.

3. At the time of hearing, the learned counsel for the petitioner contended that the impugned order of imposing major penalty without conducting domestic enquiry is illegal and unsustainable, in the light of the judgments of this Court as well as the Supreme Court.

4. Heard the learned counsel for the petitioner and the learned Standing Counsel.

5. In view of the legal position that major penalty cannot be imposed, unless a regular enquiry is conducted, the impugned order is unsustainable. However, as the impugned order was passed as early as on 29-06-2002, this Court inclined to modify the order from the major penalty to that of minor penalty.

6. Accordingly, the impugned order is modified restricting the withholding of annual increment for a period of two years without cumulative effect. However, it is made clear that the monetary benefit to which the petitioner is entitled as per the order of this Court shall be available only from the date of order and not prior to the date of the order.

7. The writ petition is accordingly disposed of. No order as to costs.

S.ANANDA REDDY, J

02nd August, 2005

SKM